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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 300 and 679

[Docket No. 170626590-8143-01]

RIN 0648-BG94

Fisheries of the Exclusive Economic Zone off Alaska; Pacific Halibut and Sablefish

Individual Fishing Quota Program; Community Development Quota Program;

Modifications to Recordkeeping and Reporting Requirements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule that would modify regulations governing the Halibut and Sablefish Individual Fishing Quota (IFQ) Program. This proposed rule includes three actions. The first action would allow Western Alaska Community Development Quota (CDQ) groups to lease (to receive by transfer) halibut individual fishing quota (IFQ) in IFQ regulatory areas 4B, 4C, and 4D in years of extremely low halibut commercial catch limits. This proposed action is necessary to provide additional harvest opportunities to CDQ groups and community residents, and provide IFQ holders with the opportunity to receive value for their IFQ when the halibut commercial catch limits may not be large enough to provide for an economically viable fishery for IFQ holders. The second action would remove an obsolete reference in the IFQ Program regulations. The third action would clarify IFQ vessel use cap regulations. This proposed rule is intended to promote the goals and objectives of the Northern Pacific Halibut Act

of 1982, the Magnuson-Stevens Fishery Conservation and Management Act, the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area, and other applicable laws.

DATES: Submit comments on or before *[insert date 30 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2017-0072, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov#!/docketDetail;D=NOAA-NMFS-2017-0072*, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of the Regulatory Impact Review (referred to as the “Analysis”) and the Categorical Exclusion prepared for this proposed rule may be obtained from

http://www.regulations.gov or from the NMFS Alaska Region website at *http://alaskafisheries.noaa.gov*.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS at the above address; by e-mail to *OIRA_Submission@omb.eop.gov*; or by fax to (202) 395-5806.

FOR FURTHER INFORMATION CONTACT: Stephanie Warpinski, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Authority for Action

The International Pacific Halibut Commission (IPHC) and NMFS manage fishing for Pacific halibut through regulations established under the authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). The IPHC promulgates regulations governing the halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention). The IPHC's regulations are subject to approval by the Secretary of State with the concurrence of the Secretary of Commerce (Secretary). NMFS publishes the IPHC's regulations as annual management measures pursuant to 50 CFR 300.62.

The Halibut Act, at sections 773c(a) and (b), provides the Secretary with general responsibility to carry out the Convention and the Halibut Act. The Halibut Act, at section 773c(c), also provides the North Pacific Fishery Management Council (Council) with authority to develop regulations, including limited access regulations, that are in addition to, and not in conflict with, approved IPHC regulations. Regulations developed by the Council may be implemented by NMFS only after approval by the Secretary.

The Council developed the Individual Fishing Quota Program (IFQ Program) for the commercial halibut and sablefish fisheries. The IFQ Program for the halibut fishery is implemented by Federal regulations at 50 CFR part 679 under the authority of the section 773 of the Halibut Act. The IFQ Program for the sablefish fishery is implemented by the Bering Sea and Aleutian Islands (BSAI) Fishery Management Plan (FMP) and Federal regulations at 50 CFR part 679 under the authority of section 303(b) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). **Background**

The IFQ Program

The IFQ Program for the management of the fixed gear (hook-and-line and pot gear) halibut and sablefish fisheries off Alaska was implemented by NMFS in 1995 (58 FR 59375; November 9, 1993). The Council and NMFS designed the IFQ Program to allocate harvest privileges among participants in the commercial halibut and sablefish fisheries to reduce fishing capacity that had led to an unsafe “race for fish” as vessels raced to harvest their annual catch limits as quickly as possible before the annual limit was reached. A central objective of the IFQ Program is to support the social and economic character of the fisheries and the coastal fishing communities where many of these fisheries are based.

Under the IFQ Program, access to the fixed gear sablefish and halibut fisheries is limited to those persons holding quota share (QS). NMFS issued separate QS for sablefish and halibut to qualified applicants based on their historical participation during a set of qualifying years in the sablefish and halibut fisheries. QS is an exclusive, revocable privilege that allows the holder to harvest a specific percentage of either the total allowable catch (TAC) in the sablefish fishery or the annual commercial catch limit in the halibut fishery. In addition to being specific to sablefish or halibut, QS is designated for specific geographic areas of harvest, a specific vessel operation

type (catcher vessel or catcher/processor), and for a specific range of vessel sizes that may be used to harvest the sablefish or halibut (vessel category). There are four vessel categories of halibut QS: Category A shares are designated for catcher/processors, vessels that process their catch at sea (i.e., freezer longline vessels), and do not have a vessel length restriction; Category B shares are designated to be fished on catcher vessels greater than 60 feet length overall (LOA); Category C shares are designated to be fished on catcher vessels greater than 35 feet but less than or equal to 60 feet LOA; and Category D shares are designated to be fished on catcher vessels less than or equal to 35 feet LOA.

NMFS annually issues IFQ permits to each QS holder. An annual IFQ permit authorizes the permit holder to harvest a specified amount of the IFQ species in a regulatory area from a specific operation type and vessel category. IFQ is expressed in pounds and is based on the amount of QS held in relation to the total QS pool for each regulatory area with an assigned catch limit.

In addition to ending the race for fish, other goals of the IFQ Program are to prevent absentee ownership of QS and promote an owner-operator fleet. To meet these goals, the IFQ Program includes restrictions on the ability of QS holders to transfer their annual IFQ. The Council and NMFS recognized that at the time the IFQ Program was implemented, some QS holders had long-standing business arrangements with hired masters who harvested IFQ on behalf of the QS holder. Therefore, the IFQ Program authorizes the use of hired masters in certain instances. Since the implementation of the IFQ Program, the Council has recommended and NMFS has approved further regulatory amendments to limit the ability of QS holders to designate a hired master to discourage absentee ownership and move towards an owner-operated program (see Section 3.8.3.1 of the Analysis).

The IFQ Program allows limited transfers of IFQ under specific conditions, including temporary medical transfers, survivorship transfer privileges, temporary military transfers, transfers through the Community Quota Entity Program, and transfers to the guided angler fish program. When these specific conditions are met, regulations allow a QS holder to designate a hired master to land the resulting IFQ derived from that holder's QS (see 50 CFR 679.41).

The Council and the public frequently use the terms "IFQ lease" or "lease" to refer to the transfer of IFQ without a transfer of the underlying QS. However, NMFS does not generally use the term "lease" in its IFQ Program regulations governing the transfer of IFQ. For consistency with the terminology used in the existing regulations and for clarity, this proposed rule uses the term "transfer of IFQ".

As described above, the halibut fishery is managed in separate geographic areas of harvest, as determined by the IPHC. Accordingly, NMFS issues halibut IFQ consistent with the IPHC's regulatory areas. NMFS's IFQ regulatory areas are described in Figure 15 to part 679. This proposed rule uses the term "Area" to refer to a specific IFQ regulatory area (e.g., Area 4B). The first action in this proposed rule only pertains to Areas 4B, 4C, 4D, and 4E. Area 4B includes waters in the Central and Western Aleutian Islands. Areas 4C, 4D, and 4E include waters north of the Aleutian Islands, in the Bering Sea, and around the Pribilof Islands (see Section 1.3 of the Analysis). The IPHC considers the halibut in Areas 4C, 4D, and 4E to be a single stock unit for stock assessment and management purposes, and often refers to them combined as Areas 4CDE.

The commercial catch limits for Areas 4B, 4C, and 4D are allocated between two distinct management programs, the CDQ Program and the IFQ Program. Throughout the duration of the

IFQ Program, the Area 4E commercial catch limit has been exclusively allocated to the CDQ Program; therefore, no Area 4E QS or IFQ is allocated.

Overall, the halibut IFQ commercial catch limits in Areas 4B and 4CDE have trended downward over the past 15 years (see Section 3.6.1 of the Analysis). The Area 4B commercial catch limit has dropped substantially from 2001 to 2007 (about 3.9 million pounds in 2001 to about 1.1 million pounds in 2007). Although there was a slight increasing trend between 2008 and 2011, the commercial catch limit for IFQ trended downward again from 2012 to 2015. In 2015, the Area 4B commercial catch limit for IFQ (about 0.9 million pounds) was less than a quarter of what it was in 2001. The combined commercial catch limit for IFQ in Areas 4C and 4D has seen more fluctuation during this period, but has still experienced an overall downward trend since 2007. In 2007, the combined commercial catch limit for IFQ in Areas 4C and 4D was about 2.2 million pounds; in 2015, it was about 0.7 million pounds.

The CDQ Program

The CDQ Program was implemented in 1992, and in 1996, the Magnuson-Stevens Act was amended to include provisions specific to the CDQ Program. The purpose of the CDQ Program is: 1) to provide eligible western Alaska villages with the opportunity to participate and invest in fisheries in the Bering Sea and Aleutian Islands management area (BSAI); 2) to support economic development in western Alaska; 3) to alleviate poverty and provide economic and social benefits for residents of western Alaska; and 4) to achieve sustainable and diversified local economies in western Alaska (16 U.S.C. 1855(i)(1)(A)).

The CDQ Program consists of six different non-profit managing organizations (CDQ groups) representing different geographical regions in Alaska: Aleutian Pribilof Island Community Development Association (APICDA), Bristol Bay Economic Development

Corporation (BBEDC), Central Bering Sea Fishermen's Association (CBSFA), Coastal Villages Region Fund (CVRF), Norton Sound Economic Development Corporation (NSEDC), and Yukon Delta Fisheries Development Association (YDFDA). The CDQ Program receives annual allocations of TAC for a variety of commercially valuable species in the BSAI groundfish, crab, and halibut fisheries, which are in turn allocated among the CDQ groups. CDQ groups use their allocations of halibut to provide opportunities for small vessel fishing by residents of their member communities.

Among the species CDQ groups are allocated for commercial fishing, Pacific halibut is an important species for community resident employment and income. NMFS allocates halibut to CDQ groups for commercial fisheries in four Areas: 4B, 4C, 4D, and 4E (see Section 3.5.1 of the Analysis). Allocations of halibut CDQ are correlated with the geographic area in which a CDQ group's member communities are located. For example, 30 percent of the halibut commercial catch limit in Area 4B is allocated to the CDQ Program. The entire allocation to the CDQ Program in Area 4B is provided to APICDA, which represents all of the CDQ communities located within the geographic range of Area 4B. Area 4C surrounds the Pribilof Islands, and the portion of the halibut commercial catch limit allocated to the CDQ program is split between CBSFA (which represents the CDQ community of St. Paul) and APICDA (which represents the CDQ community of St. George). The CDQ allocation in Area 4D is split among BBEDC, NSEDC, and YDFDA. The CDQ allocation in Area 4E is split between BBEDC and CVRF. A CDQ group may transfer its halibut CDQ to another CDQ group that has halibut CDQ allocation in the same regulatory area (50 CFR 679.31(c)).

The Council recommended and NMFS approved amendments to the IFQ Program to allow CDQ Program participants to harvest allocations of Area 4D halibut CDQ in Area 4E. This

provision allows residents in CDQ communities along the Western Alaska coast to have more near-shore opportunities to harvest their group's halibut CDQ (68 FR 9902, March 3, 2003). Additionally, the Council recommended and NMFS approved amendments to the IFQ Program to allow for the harvest of Area 4C halibut IFQ and CDQ in Area 4D in response to reports of localized depletion, decreasing catch per unit effort, and resultant limitations on the optimal utilization of Area 4C halibut IFQ and CDQ (70 FR 43328, July 27, 2005). See Section 3.5.2 of the Analysis for additional detail on the history of the halibut CDQ fishery.

The resident halibut CDQ fleets and criteria for participation in CDQ fisheries vary among the CDQ groups. Resource use is impacted by factors such as the number of interested and qualified residents, the location of the halibut resource relative to nearshore fishing grounds, other fishing opportunities (such as salmon and crab), other employment opportunities, and the availability of processing operations. Also, the resident halibut CDQ fleet is impacted by internal economic decisions made by the CDQ groups and in the ways the CDQ groups choose to promote economic development in their communities. In general, many of the small boat fishermen in CDQ communities are dependent on the halibut fishery (Section 3.5.3 of the Analysis).

Need for Action

The downward trend of halibut commercial catch limits in Areas 4B and 4CDE over the past 15 years has been dramatic, with current limits significantly lower than in the recent past years. The recent years of low halibut abundance and the resulting low commercial catch limits in Areas 4B and 4CDE have made it increasingly difficult for most CDQ groups to create a viable commercial halibut fishing opportunity for their community residents. The halibut resource is economically significant for small vessel fishing operations as well as culturally and

socially important for residents of Western Alaska CDQ communities. Correspondingly, low halibut abundance and the resulting low commercial catch limits in Areas 4B, 4C, and 4D have made it increasingly difficult for IFQ holders to have an economically viable fishery.

Under current regulations, CDQ groups cannot receive by transfer any IFQ derived from catcher vessel QS. Current regulations also prohibit halibut QS holders from transferring their IFQ separate from the underlying QS except in very narrow, specific situations, such as temporary military transfers (see Section 3.7 of the Analysis for more information). These restrictions limit the options for CDQ groups to temporarily expand opportunities for halibut fishing by community residents in times of low halibut abundance (see Section 3.7 of the Analysis).

To address these problems, this proposed rule would create a voluntary option for an IFQ holder in Areas 4B, 4C and 4D to temporarily transfer his or her halibut IFQ to a CDQ group in years of extremely low halibut abundance. This proposed flexibility would allow CDQ groups to expand the fishing opportunities for the small boat fleets operating out of the CDQ group's communities and provide IFQ holders with the opportunity to receive value for their IFQ when extremely low halibut commercial catch limits may not be large enough to provide for an economically viable fishery for IFQ holders.

This Proposed Rule and the Anticipated Effects

This proposed rule includes three actions. The primary action, Action 1, would create a voluntary option for an IFQ holder to temporarily transfer his or her halibut IFQ to a CDQ group in years of extremely low halibut abundance. Actions 2 and 3 would make minor regulatory adjustments to remove an obsolete reference in the IFQ Program regulations and to clarify IFQ

vessel use cap regulations, respectively. The following paragraphs provide additional detail on the proposed actions.

Action 1

This proposed rule would: 1) define the halibut commercial catch limits under which CDQ groups could receive IFQ by transfer; 2) establish limits on the types and amounts of IFQ that can be transferred; and 3) establish reporting requirements for CDQ groups receiving IFQ by transfer. This proposed rule would not convert transferred IFQ to CDQ. Allocations of halibut CDQ would not change under this proposed rule.

Under this proposed rule, CDQ groups would be able to receive transfers of halibut catcher vessel IFQ (Categories B, C, and D IFQ) in Areas 4C and 4D when the IPHC approves a halibut commercial catch limit that is less than 1.5 million pounds in Areas 4CDE. CDQ groups would be able to receive transfers of halibut catcher vessel IFQ (Categories B, C, and D IFQ) in Area 4B when the IPHC approves a halibut commercial catch limit that is less than 1 million pounds in Area 4B. IFQ holders would be able to transfer both blocked and unblocked IFQ to CDQ groups. This proposed rule would not revise current regulations that authorize an IFQ holder in Areas 4B, 4C and 4D to transfer his or her Category A halibut IFQ to any qualified person, including a CDQ group. This proposed rule would provide additional harvesting flexibility for Category A halibut IFQ transferred to a CDQ group in years of extremely low halibut abundance, as described in more detail below.

The Council recommended these thresholds based on an analysis of commercial catch limits between 2008 and 2017, a period of time representing a range of different halibut commercial catch limits and decreasing opportunities for CDQ community fishermen. The Council considered a range of different commercial catch limit thresholds for both Area 4B and

Areas 4CDE, before selecting these thresholds. Section 3.8.5 of the Analysis shows that from 2008 to 2016, the halibut commercial catch limit in Area 4B was never below the proposed threshold of 1 million pounds. However, in Areas 4CDE, the halibut commercial catch limit was below the proposed threshold of 1.5 million pounds in 2 years, 2014 and 2015. Therefore, under halibut abundance conditions over the last 8 years, had this proposed rule been in effect it would have allowed IFQ transfers to CDQ groups to occur in only 2 years, and only in Areas 4CDE.

In selecting these thresholds, the Council sought to balance the goal of providing additional halibut fishing opportunities for CDQ residents when the halibut CDQ allocation alone may not be large enough to sustain small vessel resident fisheries, with the need to avoid potential adverse distributional impacts on other halibut IFQ users that could result if IFQ transfers were permitted. The Council also indicated that the flexibility to transfer halibut IFQ in Areas 4B, 4C, and 4D was to be available only during worst case scenarios for halibut commercial catch limits in these Areas (Section 2.3 of the Analysis). For Areas 4CDE, the Council determined and NMFS agrees that a halibut commercial catch limit below 1.5 million pounds, as was experienced in 2014 and 2015, reflects a worst case scenario for Areas 4CDE as it represents an extremely low commercial catch limit for these Areas. For Area 4B, the Council determined and NMFS agrees that a halibut commercial catch limit below 1 million pounds, which has not been experienced during the last 10 years, reflects a worst case scenario for Area 4B as it represents an extremely low commercial catch limit for this Area. The Council selected a lower threshold for Area 4B due to concerns expressed by the public about potentially adverse distributional impacts on the community of Adak with a threshold that was higher than 1 million pounds.

This proposed rule would establish several limits on the catcher vessel IFQ that can be transferred as well as some flexibility with transferred catcher vessel and catcher/processor IFQ. This proposed rule includes five limits: 1) a CDQ group would only be able to receive catcher vessel IFQ by transfer for an Area in which it also holds halibut CDQ; 2) no vessel greater than 51 feet in length overall (LOA) could be used to harvest catcher vessel IFQ transferred to a CDQ group; 3) catcher vessel IFQ resulting from QS acquired after December 14, 2015 could not be transferred to a CDQ group until 3 years after the QS was acquired (i.e., a cooling off period); 4) an IFQ holder would not be allowed to transfer catcher vessel halibut IFQ to a CDQ group for more than 2 consecutive years; and 5) in Area 4B, only those QS holders who hold less than 76,355 QS units specified for Area 4B would be allowed to transfer their catcher vessel IFQ to CDQ groups.

The first limit would prevent a CDQ group from receiving catcher vessel halibut IFQ by transfer for an Area in which that CDQ group does not hold halibut CDQ. The Council recommended this provision so that any catcher vessel IFQ transferred to a CDQ group would be available for use in conjunction with halibut CDQ that is issued to a CDQ group. The Council determined, and NMFS agrees, that coupling catcher vessel IFQ received by transfer to areas in which a CDQ group hold halibut CDQ would ensure that the benefits of the IFQ transfer manifest with the intended recipients – the resident halibut fleet in the CDQ group’s communities adjacent to the Area. For example, if a CDQ group is issued halibut CDQ in Areas 4B and 4C, that CDQ group could only receive catcher vessel Area 4B and Area 4C IFQ by transfer. Additionally, under this proposed rule at § 679.42(a)(iii) and (iv), CDQ groups that are eligible to receive a transfer of Area 4D catcher vessel IFQ would be able to harvest that IFQ, and any Category A IFQ it holds, in Area 4E (Section 3.5.2 of the Analysis). The Council

determined, and NMFS agrees, that this additional flexibility would improve the effectiveness of the proposed action by enabling transferred IFQ to be fished closer to shore so that smaller vessels typically used by residents in CDQ communities can more easily participate in halibut fisheries. This proposed flexibility also would be consistent with section 11(8) of the IPHC annual management measures, which allows Area 4D halibut CDQ to be harvested in Area 4E. However, the IPHC would need to revise its annual management measures to extend this harvesting flexibility to catcher vessel and catcher/processor IFQ held by a CDQ group before NMFS can approve it (see section 3.8.6 of the Analysis). The IPHC is scheduled to consider this revision to the annual management measures at its January 2018 annual meeting. NMFS will take into account the IPHC's decision when developing the final rule for this action.

The second limit would prohibit the use of vessels greater than 51 feet LOA to harvest catcher vessel IFQ that is transferred to a CDQ group. The Council recommended this vessel size limit because this is the largest size vessel owned by CDQ community residents that has landed halibut CDQ during the past 10 years, 2008 through 2017 (Section 3.5.3 of the Analysis). Because this proposed rule is intended to provide additional harvest opportunities to CDQ community residents, the Council determined and NMFS agrees that allowing larger than 51 feet LOA to harvest transferred catcher vessel IFQ would be inconsistent with this objective. Current regulations provide sufficient flexibility to allow IFQ that could be transferred to a CDQ group under this proposed rule to be fished on a vessel of any length up to 51 feet LOA (see Section 2.4 of the Analysis).

This proposed rule would also clarify that any Area 4D Category A IFQ that is held by a CDQ group or transferred to a CDQ group may be fished in Area 4E by vessels less than or equal to 51 feet LOA when the commercial catch limit threshold in Area 4CDE is triggered. The

Council determined and NMFS agrees that this provision would provide additional harvest opportunities for CDQ residents. The 51-foot LOA restriction would help ensure additional harvest opportunities would be provided on the size class of vessels used by CDQ community residents (see Section 3.8.6 in the Analysis for additional detail). This proposed rule would not revise current regulations that authorize Category A IFQ for Areas 4B, 4C, or 4D to be fished in the corresponding Area on a vessel of any length.

Under the third limit, IFQ resulting from QS acquired after December 14, 2015 could not be transferred to a CDQ group until 3 years after the QS was acquired. This provision would effectively create a “cooling off” period. For example, if a person acquired Area 4C halibut QS on March 15, 2016, that holder would not be eligible to transfer the IFQ from that QS to a CDQ group until March 14, 2019. The Council determined and NMFS agrees that the proposed cooling off period is necessary to reduce the incentive to QS holders to acquire QS with the intention of transferring the resulting IFQ to CDQ groups rather than fishing the IFQ. Section 3.8.7 of the Analysis notes that the Council considered a range of cooling off periods from 3 to 5 years. In selecting the proposed cooling off period, the Council determined and NMFS agrees that a 3-year period would balance the objectives of reducing the incentives for QS holders to acquire QS with the intention of transferring it to CDQ groups with the need to provide an adequate market for CDQ groups to receive IFQ by transfer. The Council also recommended that QS acquired after December 14, 2015, be subject to the cooling off period. The Council selected the December 14, 2015, date because that is the date when the Council first added the option of a cooling off period to the suite of alternatives and options under consideration for the proposed action. NMFS agrees that this proposed date is reasonable as it would deter speculative investment in anticipation of this proposed rule, and selection of this proposed date, versus the

effective date of this action if approved, accelerates the time when QS acquired after December 14, 2015, would be eligible for transfer.

The fourth limit would prohibit an IFQ holder from transferring catcher vessel halibut IFQ for a specific IFQ regulatory area to a CDQ group for more than 2 consecutive years. This 2-year limit would apply to calendar years and would not apply only to years in which the commercial catch limit is below the threshold. Additionally, this limit would apply to the transfer of any halibut IFQ for a specific Area. If an IFQ holder chooses to transfer some but not all of his or her IFQ for a particular Area during a year when the annual commercial catch limit for that Area set below the proposed threshold that transfer would count towards the 2-year limit. Transfers of IFQ for one Area would not affect the ability to transfer IFQ for another Area. The Council determined and NMFS agrees that limitations on how many consecutive years an IFQ holder could transfer IFQ to a CDQ group would limit the potential for a specific IFQ holder to continuously transfer IFQ to CDQ groups rather than fishing that IFQ or transferring the underlying QS to other new entrants in the fishery. Section 3.8.8 of the Analysis explains that the Council considered a range of limitations on the number of years that IFQ could be transferred (i.e., from 2 to 4 years), and that a less restrictive limitation of 2 years may be appropriate given the relatively low likelihood that the thresholds to allow leasing in Area 4B or Areas 4C and 4D will be met.

Under the fifth limit, only catcher vessel QS holders that hold less than 76,355 QS units specified for Area 4B would be allowed to transfer their catcher vessel IFQ to CDQ groups. NMFS would consider all categories of Area 4B QS holdings regardless of blocked or unblocked status. This amount of QS units yielded approximately 7,500 pounds of halibut IFQ in 2016. The Council recommended and NMFS proposes this limitation to ensure that persons holding

larger amounts of QS units continue to be active fishermen in the Area 4B halibut fishery while providing an opportunity for persons holding smaller amounts of QS units to transfer catcher vessel IFQ to CDQ groups if the 1 million pound commercial catch limit threshold to allow IFQ transfers is met. The Council recommended and NMFS is proposing this limitation only for Area 4B to accommodate the specific nature of IFQ operations in the remote Aleutian Island communities in Area 4B, and after considering a range of different limits (from 2,000 to 7,500 pounds of halibut IFQ, with the preferred option to convert 7,500 pounds to 2016 QS units) that are described in Section 3.8.9 of the Analysis.

The Council received public testimony indicating that Aleutian Islands communities in Area 4B receive substantial benefits from fishery participation by persons holding relatively large amounts of halibut QS and IFQ in that area. The testifiers expressed concern that allowing these QS holders to transfer IFQ to a CDQ group could substantially reduce these benefits to the communities in years of extremely low commercial catch limits. In addition, persons holding less than 76,355 QS units would be allocated relatively small amounts of IFQ that may not be economically feasible to harvest in years of extremely low commercial halibut catch limits. The Council determined and NMFS agrees that limiting eligibility to transfer IFQ to holders of less than 76,355 QS units in Area 4B would allow the holders of these relatively small amounts of QS to lease the resulting IFQ in years of extremely low commercial halibut catch limits while maintaining the benefits of the fishery to the Aleutian Island communities from harvests of the larger holdings of IFQ.

This proposed rule also establishes a reporting requirement for CDQ groups that receive IFQ by transfer. The proposed report would be required only for those years in which CDQ groups received IFQ by transfer. CDQ groups that receive IFQ by transfer would be required to

report the annual amount and vessel category of Area 4 halibut IFQ transferred to the CDQ group, the criteria used to select IFQ holders to transfer Area 4 halibut IFQ to the CDQ group, and the criteria used to determine the person(s) eligible to fish Area 4 halibut IFQ received by transfer.

In recommending this proposed rule, the Council stated its intent for catcher vessel IFQ transferred to a CDQ group to be fished by residents of that CDQ community but did not recommend that NMFS establish this requirement in regulation. Section 2.3 of the Analysis describes that CDQ groups have different methods of defining residents in their communities and different techniques for determining who will harvest their halibut CDQ. After considering this information, the Council specified that it did not intend for NMFS to establish a regulatory definition for CDQ community resident, nor did it intend for NMFS to verify that CDQ community residents were receiving the benefits of transferred IFQ under this proposed rule. The Council recommended that NMFS implement the requirement for CDQ groups to report the persons who harvest the IFQ received by transfer. This would allow the Council and the public to monitor the use of IFQ transferred to CDQ groups and provide the Council with information to determine whether the use of transferred IFQ is consistent with its intent for the action.

The Council recommended and NMFS proposes a reporting requirement to understand the criteria that a CDQ group uses to receive transfers of IFQ and provide harvest opportunities. This information could be used to evaluate the effectiveness of this proposed rule to provide benefits to members of CDQ communities. This proposed rule would require the report to be submitted to NMFS no later than January 31 of the year after the IFQ was transferred to the CDQ group. NMFS proposes this deadline to be consistent with other reports required under the IFQ Program, and to ensure that NMFS has received the report prior to the issuance of IFQ that

typically occurs in mid-February. If a CDQ group is required to submit a report and does not do so by the deadline, the CDQ group would be ineligible to receive transfers of catcher vessel IFQ until the report is submitted.

Under this proposed rule, a CDQ group that wished to receive halibut IFQ by transfer would make an arrangement with an IFQ holder to transfer his or her IFQ. The CDQ group would need to complete an Application for Temporary Transfer of Halibut and Sablefish IFQ and submit the application to NMFS for approval. Once approved, NMFS would issue the CDQ group an IFQ permit with the pounds of halibut IFQ that would be available to be fished. After determining who would fish the halibut IFQ, the CDQ group with the IFQ permit would then need to apply for a hired master permit for the vessel operator designated to fish the halibut IFQ. Current regulations authorize a vessel operator to harvest halibut IFQ and CDQ on the same fishing trip and a vessel operator harvesting both halibut CDQ and IFQ transferred to a CDQ group would need to carry 1) a halibut CDQ permit, 2) a CDQ hired master permit, 3) a copy of the IFQ permit of the CDQ group, and 4) an IFQ hired master permit. Additionally, any vessels fishing halibut IFQ transferred to a CDQ group would be subject to the current IFQ vessel use caps under § 679.42(h)(1). If a vessel harvested both halibut IFQ and CDQ, only the halibut IFQ would accrue towards and be subject to the vessel use cap.

Halibut that is landed by a vessel operator harvesting CDQ and IFQ would be debited off two separate catch limits. Therefore, for purposes of catch accounting, participants would need to track what amount of halibut harvest is associated with the group's CDQ and what amount is associated with the IFQ permit held by the CDQ group. This distinction would be recorded on the fish ticket (Section 3.8.11.3 of the Analysis). If this proposed rule is approved, NMFS would need to make changes to the database that monitors transfers of IFQ between permit holders and

that is used to issue hired master permits to allow for this new type of transfer (see Section 3.8.11.4 of the Analysis).

Under this proposed rule, CDQ groups would be responsible for cost recovery fees based on the IFQ pounds held on the IFQ permit. Section 304(d)(2)(A) of the Magnuson-Stevens Act obligates NMFS to recover the actual costs of management, data collection, and enforcement (direct program cost) of the IFQ fisheries. Therefore, NMFS implemented a cost recovery fee program for the IFQ fisheries in 2000 (65 FR 14919, March 20, 2000). While costs specific to the CDQ Program for halibut are recoverable through a separate cost recovery program (81 FR 150, January 5, 2016), this proposed rule would require regulatory changes to the IFQ transfer and hired master use provisions and therefore constitute changes in management of the IFQ Program. CDQ group participants receiving IFQ transfers would be required to pay an IFQ cost recovery fee as a portion of the ex-vessel value of their landed halibut.

Section 7(2) of the IPHC annual management measures (82 FR 12730, March 7, 2017) authorizes a vessel operator harvesting halibut CDQ in Areas 4D or 4E to retain halibut that are smaller than the size limit established by the IPHC for personal use. Under the status quo, a vessel operator harvesting halibut IFQ held by a CDQ group along with halibut CDQ may retain halibut less than legal size for personal use. Therefore, if this proposed action is approved, vessel operators harvesting both halibut CDQ and halibut IFQ transferred to a CDQ group in Areas 4D or 4E would be authorized to retain halibut smaller than the size limit established by the IPHC in length for personal use as specified in section 7 of the IPHC annual management measures. The personal use allotment would apply to all halibut IFQ transferred to a CDQ group under this exemption. Section 7(3) of the IPHC annual management measures requires a CDQ group to

report on all retained halibut for personal use that are less than legal size and harvested on behalf of a CDQ group.

Proposed Regulations to Implement Action 1

This proposed rule would modify the definition of “annual commercial catch limit” at 50 CFR 300.61 to include definitions for Areas 3B and 4A, and for Areas 4B, 4C, 4D, and 4E.

This proposed rule would modify § 679.41 to allow transfer of halibut IFQ in Areas 4B, 4C, and 4D in years of low halibut catch limits in Areas 4B and 4CDE to CDQ groups along with the specific conditions under which this transfer activity could occur.

Additionally, a reporting requirement would be added at § 679.5(l)(10) to require a CDQ group to submit a report on the criteria it used to select IFQ holders from whom IFQ transfers would be received, the criteria it used to determine the persons who can harvest transferred IFQ, and the amount and type of IFQ transferred.

This proposed rule also includes a provision which would be added under § 679.42 to allow Area 4D IFQ that is transferred to a CDQ group to be harvested in Area 4E.

Finally, NMFS is proposing to add and reserve several paragraphs in this proposed rule to account for another rulemaking that proposes to modify the same sections of Part 679 that would be modified by this proposed rule.

Anticipated Effects of Action 1

The effects of Action 1 would depend on first the halibut resource falling below the threshold of 1 million pounds in Area 4B and 1.5 million pounds in Area 4CDE and then IFQ holders choosing to transfer their halibut IFQ to a CDQ group. If, in the future these conditions are met, then this proposed rule would be expected to provide benefits most directly to CDQ community residents who have traditionally been involved in the halibut CDQ fishery by

allowing for continued employment and income in years where commercial halibut catch limits are at extremely low levels. This opportunity may have a particularly meaningful impact on these residents, as there tends to be limited regional economic diversity in these communities, resulting in few substitute employment options for residents (Section 3.8.1 of the Analysis). This proposed rule would provide IFQ holders and CDQ groups with an opportunity to alleviate the adverse economic, social, and cultural impacts of extremely low levels of commercial halibut catch limits on Western Alaskan communities.

The benefits that could be derived from this proposed rule are different among CDQ groups and would likely even be distributional within a group. Overall, this action would not necessarily be expected to result in a financial gain for a CDQ group that chooses to receive halibut IFQ by transfer. It is likely that some, or all, of the fee an IFQ holder would incur to transfer his or her IFQ would be paid by the CDQ group. This proposed rule could also provide distributional benefits to some processing plants, secondary service providers, and communities as a whole (see Section 3.8 of the Analysis).

Allowing CDQ groups the flexibility to harvest any IFQ received by transfer for Area 4D in Area 4E would add to the existing flexibility CDQ groups have to move their halibut CDQ between IFQ regulatory areas. The Council determined and NMFS agrees that this potential for change in locational fishing intensity from this proposed action would not be a threat to overall stock conservation as long as the Area 4CDE total catch limit is not exceeded, while noting that there is a possibility of localized impacts on fishing opportunities if fishing effort patterns were to change substantially.

Halibut QS holders in Areas 4B, 4C, and 4D may also benefit from this proposed rule. These QS holders may feel constrained as their QS is associated with diminishing pounds of IFQ

under the relatively low commercial halibut catch limits in recent years. In years of extremely low halibut abundance, it may not be economically viable for some QS holders to harvest their small amounts of IFQ, particularly in remote areas covered by this proposed rule where operating costs are higher relative to other IFQ regulatory areas. Depending on operating costs and catch limits, QS holders that transfer their IFQ to CDQ groups may be able to earn more revenue from transferring their IFQ than from harvesting it themselves or hiring a master to harvest the IFQ (if the QS holder is eligible). As the IFQ Program strictly limits leasing (transfers), this proposed rule would be the only opportunity for many QS holders to transfer their Area 4B, 4C, and 4D halibut IFQ (see Section 3.8.1) in years of extremely low commercial catch limits.

This proposed rule may have adverse indirect effects on some stakeholders of the halibut IFQ fishery (see Section 3.8.2 of the Analysis). This action could prompt some amount of temporary IFQ consolidation, impacting the number of trips taken or resulting in some vessels not being used in the halibut fishery at all in a season. This reduction in participation could result in reduced fishery revenues for affected participants. Consolidation could also result in a displacement of some captain and crew jobs for the duration of time that the halibut catch limits are low enough to allow IFQ transfers. To the extent that they are not the QS holder making the decision to transfer their IFQ to CDQ groups, this proposed rule may also disadvantage vessel owners that use their vessel to harvest halibut IFQ if QS holders who historically fished their IFQ on that vessel choose to lease the IFQ and the vessel owner has reduced revenues from the fishery. Section 3.8.2 of the Analysis notes that it is uncertain how much IFQ may be transferred, from whom, and how this would impact current operations.

As discussed in Section 3.8.1 of the Analysis, transferred IFQ received by a CDQ group and harvested by its community resident fleets would be expected to follow landing patterns similar to the current halibut CDQ operations. However, if the locations of port of origin and landings changes with IFQ received by this transfer provision, there is a potential some communities may not receive revenues from raw fish tax, business landing tax, and other economic activity associated with fishing, such as purchase of food and fuel. These are distributional impacts; therefore, they could represent losses to some communities, while communities with traditional halibut CDQ participation may benefit due to the increased activity from halibut IFQ.

Additionally, this proposed rule may motivate some QS holders who may otherwise consider selling, to hold onto their Areas 4B, 4C, or 4D halibut QS. For those individuals seeking entry into the halibut QS market, the lack of QS movement may not be a positive result. However, to prevent speculative purchases of QS with the intent of using the transfer provision allowed under this proposed rule, this proposed rule includes a cooling off period that limits the transfer of IFQ until 3 years after the QS is acquired. Areas 4B, 4C, and 4D already tend to have the lowest level of QS transactions of any regulatory area (although, this may also be because a portion of the catch limit is designated as CDQ, thus the QS pool is much smaller) and the QS prices, similar to other regulatory areas, appear to be increasing (Section 3.8.4 of the Analysis).

Additionally, this proposed rule would support one of the other goals of the IFQ Program, which is to increase the ability of the rural coastal communities adjacent to the BSAI to share in the wealth generated by the IFQ Program by providing community residents with the opportunity to benefit from fishing for additional halibut IFQ in years of extremely low commercial catch limits (see Section 3.8.3.1 of the Analysis).

Action 2

This proposed rule would remove an obsolete reference in the regulations at § 679.42(a)(2)(i). Currently, this regulation provides an exception in the wording. However, the paragraph (k) referred to in § 679.42(a)(2)(i) was modified by the final rule to revise regulations governing the use of commercial halibut QS and the processing of non-IFQ species when processed halibut is onboard a vessel (73 FR 8822; February 15, 2008). That final rule removed paragraph (k) and re-designated paragraph (l) as paragraph (k). NMFS inadvertently neglected to remove the cross-reference to paragraph (k) in § 679.42(a)(2)(i). Therefore, with this proposed rule, NMFS proposes removing the cross-reference to paragraph (k) to clarify that persons possessing unused Category B, C, or D halibut QS may be on board a catcher/processor vessel when that vessel is harvesting and processing Category A halibut or sablefish IFQ or is harvesting and processing non-IFQ species. The effects of this action are expected to be minor and beneficial by improving the clarity of the regulations.

Action 3

This proposed rule would clarify existing regulations pertaining to the IFQ vessel limitations, also referred to as the vessel use caps. NMFS proposes to add language to § 679.42(h)(1) and (h)(2) to clarify that the vessel use caps only apply to halibut and sablefish IFQ and not to halibut and sablefish CDQ. This action would improve the clarity of the regulations and help IFQ and CDQ participants understand what regulations to which they are subject. The effects of this action are expected to be minor and beneficial by improving the clarity of the regulations.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the BSAI FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

Regulations governing the U.S. fisheries for Pacific halibut are developed by the International Pacific Halibut Commission (IPHC), the Pacific Fishery Management Council, the North Pacific Fishery Management Council (Council), and the Secretary of Commerce. Section 5 of the Northern Pacific Halibut Act of 1982 (Halibut Act, 16 U.S.C. 773c) allows the Regional Council having authority for a particular geographical area to develop regulations governing the allocation and catch of halibut in U.S. Convention waters which are in addition to, and not in conflict with, IPHC regulations. This proposed rule is consistent with the Council's authority to allocate halibut catches among fishery participants in the waters in and off Alaska. The Halibut Act, at sections 773c(a) and (b), provides the Secretary of Commerce with the general responsibility to carry out the Convention with the authority to, in consultation with the Secretary of the department in which the U.S. Coast Guard is operating, adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. This proposed rule is consistent with the Halibut Act and other applicable laws.

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

This proposed rule would revise IFQ Program regulations to authorize CDQ groups to receive halibut IFQ transfers in certain areas when catch limits are below the established thresholds, subject to specific limitations. The directly regulated entities (118 small entities in 2015) are persons that hold Areas 4B, 4C, or 4D halibut QS, CDQ groups, and harvesters, including CDQ community residents, who have traditionally harvested halibut CDQ and may have an opportunity to harvest halibut IFQ received by transfer. Almost all of the directly regulated entities are considered small entities. As described in the Analysis, the 118 directly regulated entities would only be impacted to the extent that they choose to (and are able to) participate in receiving halibut IFQ transfers as a result of the proposed regulatory changes.

Direct impacts would be expected to be positive for both CDQ community resident halibut fishery participants and QS holders that choose to utilize the IFQ transfer provision because the opportunity for this additional flexibility in years of low halibut abundance would be voluntary for both user groups and would only be undertaken if it would benefit the parties to the transfer. Direct impacts would be expected to be positive for CDQ community resident harvesters who have traditionally harvested halibut CDQ and may have an opportunity to harvest additional transfers of halibut IFQ under this proposed rule because it would provide an opportunity to continue to receive economic benefits from fishery participation in times of low abundance. This proposed rule therefore is not expected to have a significant economic impact on a substantial number of small entities regulated by this proposed rule.

As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

Collection-of-Information Requirements

This proposed rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). NMFS has submitted these requirements to OMB for approval under Control Number 0648–0272 and Control Number 0648-0711. Public reporting burden is estimated to average per response: 2 hours for Application for Temporary Transfer of Halibut and Sablefish IFQ, 40 hours for the report, and 1 minute for electronic submission of cost recovery fees or 30 minutes for non-electronic fee submission. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Public comment is sought regarding whether these proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collections of information to NMFS (see **ADDRESSES**), and by e-mail to *OIRA_Submission@omb.eop.gov* or fax to 202-395-5806.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with, a collection of information subject to the requirement of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at: http://www.cio.noaa.gov/services_programs/prasubs.html.

List of Subjects

50 CFR Part 300

Administrative practice and procedure, Fisheries, Fishing, Reporting and recordkeeping requirements.

50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Date: February 15, 2018.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs

National Marine Fisheries Service

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR parts 300 and 679 as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart E—Pacific Halibut Fisheries

1. The authority for 50 CFR part 300, subpart E, continues to read as follows:

Authority: 16 U.S.C. 773-773k.

2. In § 300.61, revise the definition of “Annual commercial catch limit” to read as follows:

§ 300.61 Definitions.

* * * * *

Annual commercial catch limit, for purposes of commercial fishing in:

(1) Commission regulatory areas 2C and 3A, means the annual commercial allocation minus an area-specific estimate of commercial halibut wastage.

(2) Commission regulatory areas 3B and 4A, means the annual total allowable halibut removals by persons fishing IFQ.

(3) Commission regulatory areas 4B, 4C, 4D, and 4E, means the annual total allowable halibut removals by persons fishing IFQ and CDQ.

* * * * *

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

3. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108-447; Pub. L. 111-281.

4. In § 679.5:

a. Add and reserve paragraph (l)(9);

b. Add paragraph (l)(10);

c. Add and reserve paragraph (v); and

d. Add paragraph (w) to read as follows:

§ 679.5 Recordkeeping and reporting.

* * * * *

(l) * * *

(9) [Reserved]

(10) A report on annual IFQ regulatory areas 4B, 4C, and 4D Halibut IFQ transfer activities must be submitted to NMFS by a CDQ group as required at § 679.5(w).

* * * * *

(v) [Reserved]

(w) *Report on Area 4 halibut IFQ transfers to CDQ groups—(1) Applicability.* A CDQ group that receives IFQ regulatory area 4 halibut IFQ by transfer must submit a timely and complete report on the CDQ group's annual halibut IFQ transfer activities for each calendar year that it receives IFQ regulatory area 4 halibut IFQ by transfer. A CDQ group is not required to submit a report for any calendar year in which it did not receive any IFQ regulatory area 4 halibut IFQ by transfer.

(2) *Time limits and submittal.* A CDQ group must submit a complete report by January 31 of the year following a fishing year during which the CDQ group receives IFQ regulatory area 4B, 4C, or 4D halibut IFQ by transfer. The complete report must be submitted to the North Pacific Fishery Management Council, 605 West 4th Ave., Suite 306, Anchorage, AK 99501-2252, and to NMFS-Alaska Regional Administrator, P.O. Box 21668, Juneau, AK, 99802-1668.

(3) *Complete report.* A complete report contains all report requirements described in paragraphs (w)(4)(i) through (w)(4)(iii) of this section.

(4) *Report requirements.* A CDQ group must report the following information:

(i) The annual amount, IFQ regulatory area and vessel category of IFQ regulatory area 4B, 4C, and 4D halibut IFQ transferred to the CDQ group;

(ii) The criteria used to select IFQ holders to transfer IFQ regulatory area 4B, 4C, and 4D halibut IFQ to the CDQ group; and

(iii) The criteria used to determine the person(s) eligible to harvest IFQ regulatory area 4B, 4C, and 4D halibut IFQ received by transfer.

5. In § 679.41:

- a. Add and reserve paragraph (c)(12);
- b. Add paragraph (c)(13);
- c. Revise paragraphs (d)(1), (g)(1), and (h)(2);
- d. Add and reserve paragraph (n); and
- e. Add paragraph (o) to read as follows:

§ 679.41 Transfer of quota shares and IFQ.

* * * * *

(c) * * *

(12) [Reserved]

(13) If the person applying to receive halibut IFQ assigned to vessel categories B, C, or D in IFQ regulatory areas 4B, 4C, or 4D is a CDQ group, the following determinations are required:

(i) The CDQ group applying to receive halibut IFQ for an IFQ regulatory area receives an annual allocation of halibut CDQ for that IFQ regulatory area pursuant to § 679.31(b)(1);

(ii) The QS holder applying to transfer halibut IFQ to a CDQ group has not transferred any halibut IFQ assigned to vessel categories B, C, or D for that IFQ regulatory area to a CDQ group during the last two consecutive fishing years;

(iii) If the IFQ to be transferred to a CDQ group results from QS that was transferred to the QS holder after December 14, 2015, the QS holder applying to transfer halibut IFQ to a CDQ group has held the underlying QS for that IFQ for a minimum of 3 years from the date NMFS approved the transfer;

(iv) If the IFQ to be transferred to a CDQ group is assigned to vessel categories B, C, or D in IFQ regulatory area 4B, the QS holder applying to transfer that halibut IFQ to a CDQ group holds fewer than 76,355 halibut QS units in IFQ regulatory area 4B; and

(v) The CDQ group applying to receive halibut IFQ has submitted a complete report if required to do so by § 679.5(w).

(d) * * *

(1) *Application for Eligibility.* All persons, except as provided in paragraphs (d)(1)(i) and (d)(1)(ii) of this section, applying to receive QS or IFQ must submit an Application for Eligibility to Receive QS/IFQ (Application for Eligibility) containing accurate information to the Regional Administrator. The Regional Administrator will not approve a transfer of IFQ or QS to a person until the Application for Eligibility for that person is approved by the Regional Administrator. The Regional Administrator shall provide an Application for Eligibility form to any person on request.

(i) An Application for Eligibility is not required for a CQE if a complete application to become a CQE, as described in paragraph (l)(3) of this section, has been approved by the Regional Administrator on behalf of an eligible community.

(ii) An Application for Eligibility is not required for a CDQ group.

* * * * *

(g) * * *

(1) Except as provided in paragraph (f), paragraph (g)(2), paragraph (l), paragraph (n) or paragraph (o) of this section, only persons who are IFQ crew members, or who were initially issued QS assigned to vessel categories B, C, or D, and meet the eligibility requirements in this section, may receive by transfer QS assigned to vessel categories B, C, or D, or the IFQ resulting from it.

* * * * *

(h) * * *

(2) IFQ resulting from categories B, C, or D QS may not be transferred separately from its originating QS, except as provided in paragraph (d), paragraph (f), paragraph (k), paragraph (l), paragraph (m), or paragraph (o) of this section.

* * * * *

(n) [Reserved]

(o) *Transfer of IFQ to CDQ groups.* (1) A QS holder who holds fewer than 76,355 units of halibut QS in IFQ regulatory area 4B may transfer halibut IFQ assigned to vessel categories B, C, or D in IFQ regulatory area 4B to a CDQ group that receives an allocation of IFQ regulatory area 4B halibut CDQ if the annual commercial halibut catch limit, as defined in § 300.61 of this title, for Area 4B is less than 1 million pounds in that calendar year.

(2) A QS holder in IFQ regulatory areas 4C or 4D may transfer halibut IFQ assigned to vessel categories B, C, or D in IFQ regulatory areas 4C or 4D to a CDQ group that receives an allocation of halibut CDQ in that IFQ regulatory area if the annual commercial halibut catch limit, as defined in § 300.61 of this title, for Area 4CDE is less than 1.5 million pounds in that calendar year.

(3) A QS holder must meet the requirements in paragraph (c)(13) of this section to transfer halibut IFQ assigned to vessel categories B, C, or D in IFQ regulatory areas 4B, 4C, or 4D to a CDQ group.

(4) A CDQ group that receives halibut IFQ by transfer may not transfer that halibut IFQ to any other person.

6. In § 679.42:

- a. Revise paragraph (a)(1);
- b. Remove paragraph (a)(2)(i);
- c. Redesignate paragraphs (a)(2)(ii) through (iv) as paragraphs (a)(2)(i) through (iii);
- c. Add paragraph (a)(2)(iv); and
- d. Revise paragraphs (h)(1) introductory text and (h)(2) introductory text to read as follows:

§ 679.42 Limitations on use of QS and IFQ.

(a) * * *

(1) The QS or IFQ specified for one IFQ regulatory area must not be used in a different IFQ regulatory area, except for the following:

(i) All or part of the QS and IFQ specified for regulatory area 4C may be harvested in either Area 4C or Area 4D.

(ii) All or part of the halibut CDQ specified for regulatory area 4D may be harvested in either Area 4D or Area 4E.

(iii) If a CDQ group is authorized to receive a transfer of halibut IFQ assigned to vessel categories B, C, or D in IFQ regulatory area 4D as specified in § 679.41(o) of this part, all or part

of the halibut IFQ specified for regulatory area 4D that is held by or transferred to a CDQ group may be harvested in either Area 4D or Area 4E.

(2) * * *

* * * * *

(iv) Halibut IFQ assigned to vessel category B, C, or D held by a CDQ group may not be used on a vessel over 51 feet LOA, irrespective of the vessel category assigned to the IFQ.

* * * * *

(h) * * *

(1) *Halibut*. No vessel may be used, during any fishing year, to harvest more halibut IFQ than one-half percent of the combined total catch limits of halibut for IFQ regulatory areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E, except that:

* * * * *

(2) *Sablefish*. No vessel may be used, during any fishing year, to harvest more sablefish IFQ than one percent of the combined fixed gear TAC of sablefish for the GOA and BSAI IFQ regulatory areas, except that:

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